

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

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IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
THUY T. PHAM and	:	LS07091011BAC
REGAL NAILS,	:	
	:	
RESPONDENTS.	:	
	:	

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Division of Enforcement Case File Number: 05 BAC 054

The parties to this action for the purposes of Section 227.53 of the Wisconsin statutes are:

Thuy T. Pham  
13170 39<sup>th</sup> Avenue North  
Chippewa Falls, Wisconsin 54729

Regal Nails  
2786 Commercial  
Chippewa Falls, Wisconsin 54729

Barbering and Cosmetology Examining Board  
Post Office Box 8935  
Madison, Wisconsin 53708-8935

Department of Regulation and Licensing  
Division of Enforcement  
Post Office Box 8935  
Madison, Wisconsin 53708-8935

**PROCEDURAL HISTORY**

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Barbering and Cosmetology Examining Board (Board). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

**FINDINGS OF FACT**

1. Regal Nails is duly licensed as a manicuring establishment in the state of Wisconsin (license #71-2624). This license was first granted on January 13, 2005, and is current through June 30, 2007. The last address reported to the Department of Regulation and Licensing (hereinafter Department) is 2786 Commercial, Chippewa Falls, Wisconsin 54729.
2. Thuy T. Pham (Date of Birth of July 12, 1978) is duly licensed as a manicurist in the state of Wisconsin, (license

number 85-6328). This license was first granted on February 21, 2006, and is current through June 30, 2007. The last address Ms. Pham reported to the Department is 1927 39<sup>th</sup> Avenue North, Chippewa Falls, Wisconsin 54729. Ms. Pham is also listed with the Department as one of the two owners of Regal Nails. As one of the owners of a licensed manicuring establishment, Ms. Pham is responsible for compliance with Wis. Stat. Ch. 454 and Wisconsin Administrative Code Chs. BC 2, 3 and 4.

3 On March 22, 2006, Investigator Michelle Krisher from the Department inspected Regal Nails. Investigator Krisher found Andy Nguyen and Jung Pham providing manicuring services to customers. Andy Nguyen and Jung Pham are not licensed by the Department in the state of Wisconsin for any occupational/professional licenses.

4 An employee of Regal Nails told Investigator Krisher that Huy Nguyen performed manicuring services at the establishment. Mr. Nguyen is not licensed by the Department in the state of Wisconsin for any occupational/professional licenses.

5 In addition, Investigator Krisher found ten 32 ounce bottles of a liquid acrylic containing methyl methacrylate monomer (MMA) at Regal Nails. Andy Nguyen told Investigator Krisher that that liquid acrylic containing MMA was utilized by Regal Nails for acrylic nails.

6 In resolution of this matter, Thuy T. Pham and Regal Nails consents to the entry of the following Conclusions of Law and Order.

### **CONCLUSIONS OF LAW**

1. The Wisconsin Barbering and Cosmetology Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. sec. 454.15.

2. The Wisconsin Barbering and Cosmetology Examining Board is authorized to enter into the attached stipulation pursuant to Wis. Stat. sec. 227.44(5).

3. By the conduct referred to in the above Findings of Fact, Thuy T. Pham and Regal Nails have violated:

1. Wis. Stat. Sec. 454.04(1)(d). No person may engage in manicuring unless the person has received training in the areas of service provided and holds a current manicurist license, barber or cosmetologist license, manager license, temporary permit or training permit issued by the examining board or is an apprentice under s. 454.10 or a student in a manicuring or barbering or cosmetology course of instruction.
2. Wis. Stat. sec. 454.15(2)(c). Engaged in conduct in the practice of barbering or cosmetology, aesthetics, electrology or manicuring which evidences a lack of knowledge or ability to apply professional principles or skills.
3. Wis. Stat. Sec. 454.15(2)(i). Violation of Chapter 454 or of the Administrative Code promulgated under Chapter 454 is cause for discipline.
4. Wis. Admin. Code Sec. BC 2.03(9). Forbids licensees from using methyl methacrylate monomer, commonly referred to as MMA in liquid form, and licensees may not use any cosmetic or nail product formulated with MMA as one of its ingredients.
5. Wis. Admin. Code §. BC 2.04(1). Licensees may not assist or participate in the unauthorized or unlicensed practice of barbering and cosmetology, aesthetics, electrology or manicuring.
6. Wis. Admin. Code § BC 2.04(2). Licensees shall report to the board unauthorized or unlicensed practice or other violations of ch. 454, Stats., and chs. BC 1 to 9.

7. Wis. Admin. Code § BC 2.06. The owner of any licensed establishment shall be responsible for compliance with ch. 454, Stats., and chs. BC 2, 3 and 4.
8. Wis. Admin. Code § BC 2.08(1)(b). Licensees holding current licenses or permits granted under ch. 454, Stats., shall:
  - (b) Be responsible for their own professional practice, conduct and compliance with ch. BC 2.

### **ORDER**

NOW, THEREFORE, **IT IS HEREBY ORDERED** that Thuy T. Pham and Regal Nails shall jointly and severally pay to the Department of Regulation and Licensing a forfeiture of TWO THOUSAND dollars (\$2,000.00).

**IT IS FURTHER ORDERED** that Thuy T. Pham and Regal Nails shall jointly and severally pay full costs in the amount of SEVEN HUNDRED TWENTY-FIVE dollars (\$725.00) in this matter.

Payment of the forfeiture and costs shall be submitted in installments. The installments shall be submitted on the following payment schedule:

Payment	Date of Payment	Amount
1	September 15, 2007	\$227.08
2	December 15, 2007	\$227.08
3	March 15, 2008	\$227.08
4	June 15, 2008	\$227.08
5	September 15, 2008	\$227.08
6	December 15, 2008	\$227.08
7	March 15, 2009	\$227.08
8	June 15, 2009	\$227.08
9	September 15, 2009	\$227.08
10	December 15, 2009	\$227.08
11	March 15, 2010	\$227.08
12	June 15, 2010	<b>\$227.12</b>

Thuy T. Pham and Regal Nails may pay the amount due of the forfeiture and costs at any time prior to each date for installment payment.

Payment shall be made by ***certified check or money order***, payable to the Wisconsin Department of Regulation and Licensing and sent to:

Department Monitor  
Division of Enforcement  
Post Office Box 8935  
Madison, Wisconsin 53708-8935  
608-261-7904

**IT IS FURTHER ORDERED** that in the event Thuy T. Pham and Regal Nails fail to timely submit any payment of the forfeiture and costs as set forth above, the establishment license of Regal Nails (license number 71-2624) and the manicurist license of Thuy T. Pham (license number 85-6328) **SHALL BE SUSPENDED**, without further notice or hearing, until Thuy T. Pham and Regal Nails have complied with the terms of this Order.

This Order shall become effective upon the date of its signing.

By: Jeannie M. Bush  
A member of the Board

9/10/07  
Date

STATE OF WISCONSIN  
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	STIPULATION
THUY T. PHAM and	:	LS # _____ BAC
REGAL NAILS,	:	
	:	
RESPONDENTS.	:	
	:	

Division of Enforcement Case File Number: 05 BAC 054

- It is hereby stipulated between Thuy T. Pham and Regal Nails (hereafter “Respondents”), and Claudia Berry Miran, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:
1. This Stipulation is entered into as a result of a pending investigation by the Division of Enforcement (05 BAC 054). Respondents consent to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
  2. Respondents understand that by the signing of this Stipulation they voluntarily and knowingly waive their rights, including: the right to a hearing on the allegations against them, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against them; the right to call witnesses on their behalf and to compel their attendance by subpoena; the right to testify themselves; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to them under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.
  3. Respondents have been provided an opportunity to obtain legal counsel prior to signing this stipulation.
  4. Respondents agree to the adoption of the attached Final Decision and Order by the Barbering and Cosmetology Examining Board (hereafter “Board”). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondents waive all rights to any appeal of the attached order, if adopted in the form as attached.
  5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.
  6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Barbering and Cosmetology Examining Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondents or their attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board’s deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.
  7. Respondents are informed that should the Board adopt this stipulation, the Board’s Final Decision and Order is a public record and will be published in accordance with standard Department policy.
  8. The Division of Enforcement joins Thuy T. Pham and Regal Nails in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

**Thuy T. Pham**  
Respondent  
13170 39<sup>th</sup> Avenue North  
Chippewa Falls, Wisconsin 54729  
License Number: 85-6328

Date

**Regal Nails**  
Respondent  
2786 Commercial  
Chippewa Falls, Wisconsin 54729  
License Number: 71-2624

Date

**Claudia Berry Miran**  
Attorney  
Division of Enforcement  
Wisconsin Department of Regulation and Licensing  
Post Office Box 8935  
Madison, Wisconsin 53708-8935

Date